

REMARKS

In response to the Office Action mailed March 13, 2006, Applicants respectfully submit the amendments to the claims.

A Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(b) is submitted herewith.

Claims 1-10 are pending.

Claims 1, 3, 4, and 6-10 are withdrawn from further consideration.

Claims 2 and 5 are amended.

Reconsideration is respectfully requested in view of the above amendment and the following remarks.

Claim Objections:

The Examiner objects claim 2 because the space between the words “strain” and “comprising” is missing. Applicants have corrected this error.

Rejection under 35 USC 112, 2nd paragraph

The Examiner rejects claims 2 and 5 under 35 USC 112, 2nd paragraph, as being incomplete for omitting steps. Applicants have amended claims 2 and 5 by adding the omitted steps as suggested by the Examiner. Accordingly, rejection to claims 2 and 5 under 35 USC 112, 2nd paragraph has been obviated.

Rejection under 35 USC 112, 1st paragraph

The Examiner rejects claims 2 and 5 under 35 USC 112, 1st paragraph, on the ground that the specification, while being enabling for evaluating the effectiveness of a reverse transcriptase inhibitor for HIV strains with a mutation at position 194 in the reverse transcriptase region, does not reasonably provide enablement for determining the susceptibility or effectiveness of other HIV drugs and other viral drugs in viral strains containing drug-resistant mutations at positions other than 194.

Applicants have amended claims 2 and 5 to limit the claims to evaluating the effectiveness of a reverse transcriptase inhibitor for HIV strains with a mutation at position 194 in the transcriptase region. Accordingly, the rejection under 35 USC 112, 1st paragraph has been obviated.

Rejection under 35 USC 103(a)

The Examiner rejects claims 2 and 5 under 35 USC 103(a) as being unpatentable over Stein et al (1994) in view of Servais et al (2001).

As the Examiner noted, Stein et al. discloses sequence analysis of HIV RT from patients comprising collecting a sample from an HIV-infected patient; determining whether the sample comprises a nucleic acid encoding HIV RT having at least one mutation at position 194; and correlating the presence of the mutations to a change in effectiveness or susceptibility of AZT.

However, Stein et al. clearly teach that AZT is NOT an inhibitor to the mutated RT since the HIV having RT mutations at position 194 were isolated from the AZT resistant HIV patients.

Stein et al also does not teach the specific amino acid change to G at position 194.

Similarly, Servais et al only disclose an RT with mutation 194G from patients failing anti HIV therapy.

Taken together, Stein et al and Servais et al, alone or in combination, do not teach a method of evaluating a drug that inhibits the RT having a mutation at 194.

The invention is directed to a method for evaluating the effectiveness or susceptibility of an RT inhibitor that inhibits a MUTATED HIV reverse transcriptase as an anti HIV therapy for a patient infected with HIV having a mutation at position 194 of the reverse transcriptase. Claims 2 and 5, as presently amended, clearly make such distinction from the cited references.

Because Stein et al and Servais et al, alone or in combination, do not teach nor suggest the evaluation of a mutated RT inhibitor, the present invention is not obvious over the cited prior art references. Accordingly, the rejection under 35 USC 103(a) has been overcome and should be withdrawn.

Allowance is respectfully requested

Respectfully submitted,

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